GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

MA&UD Department - Vijayawada Municipal Corporation - Disciplinary action against Sri Lal Bahadur, Watchman for simultaneously working in two Government Institutions – Show Cause notice issued – Explanation submitted – Cancellation of Council Resolution No.222, dated.26.09.2003 & Appeal rejected – Orders – Issued.

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MUNICIPAL ADMINISTRATION & URBAN DEVELOPMENT (VIG.II) DEPARTMENT

G.O.MS.No. 51 **Dated: 01-02-2018 .**
Read the following:

1. Letter No.Rc.A2-1728/98, dt. 29.4.1998 of the E.O., Sri Durgamalleswara Swamy Varla Devastham, Vijayawada.
2. Proceedings of the VMC, Rc.C7-3077/98, dt 29.4.1998.
3. Charge Memo No.Rc.C2-9635/98, dt.03.07.1998 of VMC.
4. Appeal of Sri Lal Bahadur, Watchman, dt.25.02.2003.
5. Council Resolution No.222, dt. 26.09.2003 of Vijayawada Municipal Corporation.
6. From the Commissioner, VMC., Lr.RcC2-19635/1998, Dated 12.09.2017.

O R D E R:

The Regional Joint Commissioner & Executive Officer, Sri Durga Malleswara Swamyvarla Devastanam, Vijayawada in its lr.dt.29.04.1998 has reported that Sri Lal Bahadur, Nepali Gurkha has appointed on 01.06.1984 as Night Watchman in the Devastanam and he was suspended for dereliction of duties on the event of theft incident occurred in the temple on 25.04.1998 night. During the course of enquiry, it was found that he has been working as Day Watchman since 03.10.1977 in the Vijayawada Municipal Corporation with a different name of Lal Bahadur with different date of birth. Accordingly, it is proved that he has been working in two institutions, which is highly irregular. The Enquiry Officer has requested to take necessary action against the individual.

2. The Commissioner, Vijayawada Municipal Corporation has issued charges dt.03.07.1998 against Sri Lal Bahadur, Watchman for cheating the office by working at two Government institutions simultaneously on regular pay scales besides filing Criminal case in Police Station on 18.07.1998. The 2nd Metropolitan Magistrate, Vijayawada in his verdict dt.13.11.2000 in case No.219/99 has stated that the accused i.e., Sri Lal Bahadur, is found not guilty offence under section 420 IPC, but he is liable for departmental action. Subsequently, the Commissioner, VMC has appointed inquiry authority to enquire into the charges framed against Sri Lal Bahadur, Watchman, Vijayawada Municipal Corporation vide Proceedings dt.05.01.2001. In turn, the IA has submitted inquiry report duly proving charges against him. Subsequently, the Commissioner, Vijayawada Municipal Corporation, in compliance to Hon'ble Court orders, has issued orders dt.15.11.2001 duly reinstating to Sri Lal Bahadur, Watchman into duty.

(P.T.O)

3. The Commissioner, Vijayawada Municipal Corporation, after examining the findings of Inquiry Authority has imposed a penalty of stoppage of Seven(7) Annual Grade Increments with cumulative effect against the individual vide Proceedings dt.19.12.2002. Aggrieved by above, the individual has filed an appeal dt.25.02.2003 before the Commissioner, Vijayawada Municipal Corporation duly requesting to revoke the penalty imposed on him and grant the suspension period as duty. In turn, the Municipal Council vide their Council Resolution No.222, dt.26.09.2003 has resolved to reduce the penalty of stoppage of seven annual grade increments with cumulative effect to that of stoppage of two annual grade increments with cumulative effect.

4. The Commissioner, Vijayawada Municipal Corporation in his lr.dt.12.11.2003 while stating among others has stated that "it is a fit case to issue orders against Sri Lal Bahadur, Watchman for removal from the service and if the penalty is not imposed on the individual, it will give an lenient view to the other employees and also create bad image on the part of administration".

5. The Commissioner, Vijayawada Municipal Corporation has further reported that, the delinquent employee cannot be continued in service on his earlier dismissal from service by the Sri Durga Malleswara Swamy Varla Devasthanam and requested the Government to issue early orders for cancellation of the Council Resolution in C.R.No.222, Dt. 26.09.2003 and also to order for dismissal of Sri Lai Bahadur from service in terms of clause (x) of Rule 9 of APCS (CCA) Rules 1991.

6. As the matter stood thus, Sri Lal Bahadur, Watchman, Vijayawada Municipal Corporation has filed an OA before Hon'ble APAT. The Hon'ble APAT in its orders dt.11.10.2012 in OA No.10031/2009 while disposing the OA has issued following direction:

"The Commissioner, Municipal Corporation, Vijayawada preferred an appeal in the month of November, 2003 before the Government under the provisions of 679(A) of the HMA Act, 1955 which is still pending. Therefore, this OA is disposed of directing the Government in Municipal Administration and Urban Development department, to issue orders on the appeal preferred by the Commissioner, Municipal Corporation, Vijayawada, in the matter, within a period of four weeks from the date of receipt of copy of this order".

7. Government have examined the matter and permitted the Commissioner, Vijayawada Municipal Corporation to dismiss Sri Lal Bahadur, Watchman, Vijayawada Municipal Corporation from service in terms of Clause (x) of Rule-9 of APCS (CCA) Rules, after giving to him an opportunity vide Govt.Memo dt.21.02.2013. In turn, the Commissioner, Vijayawada Municipal Corporation has issued a show cause notice dt.30.04.2013 against Sri Lal Bahadur, Watchman, VMC, as to why he should not dismiss him from service. In reply, the individual in his representation dt.16.05.2013 has stated that, he was already awarded punishment and implemented the same and now deciding to remove him from service is not justified and the original punishment cannot be modified, imposing higher punishment and also requested to drop further action in the matter.

(Contd..3)

8. The Commissioner, Vijayawada Municipal Corporation in his lr.dt.01.07.2013 while forwarding the explanation of the individual on the show cause notice and the CR No.187, dt.24.05.2013 has requested the Government to issue necessary instructions on the further course of action to be taken in the matter, in view of the pending OA No.3452/2013 and also requested the Government to issue necessary orders cancelling the CR No.222, dt.26.09.2003 under Section 679-A of GHMC Act, 1955 for taking further course of action against Sri Lal Bahadur, Watchman, as he is due for retirement on the AN of 30.06.2016 on attaining the age of superannuation. At this juncture, the Hon'ble APAT has been dismissed the OA No.3452/2013 vide orders dt.24.10.2016, as the individual has already retired from service.

9. Government have examined the entire case details carefully and decided to cancel the Council resolution No.222, dt.26.09.2003 and to confirm the punishment of seven (7) increments with cumulative effect against Sri Lal Bahadur, Watchman.

10. Accordingly, the Government, in exercise of the powers conferred under Section 679-A (1) of A.P. Municipal Corporation Act, 1955, Government hereby cancel the Council Resolution No.222, dt.26.09.2003 of Vijayawada Municipal Corporation, in which the punishment of seven (7) annual grade increments with cumulative effect was reduced to two (2) annual grade increments with cumulative effect against Sri Lal Bahadur, duly rejecting the appeal and confirming the earlier punishment of withholding of (7) annual grade increments with cumulative effect against Sri Lal Bahadur, Watchman (Retd), Vijayawada Municipal Corporation.

11. The Commissioner, Vijayawada Municipal Corporation, is therefore requested to take necessary action and also to release pensionery benefits to the individual.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.KARIKAL VALAVEN
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Commissioner, Vijayawada Municipal Corporation.
The Mayor, Vijayawada Municipal Corporation.
Copy to:
The OSD to Minister (MA&UD).
The PS to Principal Secretary to Govt., MAUD Department.
The MA&UD (D) Section (for information).
SF / SC.

// FORWARDED BY ORDER //

SECTION OFFICER.